

IN THE INCOME TAX APPELLATE TRIBUNAL GUWAHATI BENCH, “E COURT” AT KOLKATA

(समक्ष) श्री ए. टी. वर्की, न्यायीक सदस्य एवं डॉ. अर्जुन लाल सैनी, लेखा सदस्य)

[Before Shri A. T. Varkey, JM & Dr. A. L. Saini, AM]

I.T.A. No. 313/Gau/2018
Assessment Year: 2012-13

Padam Gogoi (PAN: AFDPG7805B)	Vs.	Deputy Commissioner of Income-tax, Circle-3, Guwahati
Appellant		Respondent

Date of Hearing	13.05.2019
Date of Pronouncement	13.05.2019
For the Appellant	Shri S. P.Bhati, FCA
For the Respondent	Shri D. Loyi, Addl. CIT, Sr. DR

ORDER**Per A.T.Varkey, JM**

This is an appeal preferred by the assessee against the order of Commissioner of Income Tax (Appeals), Guwahati-2, Guwahati dated 13.08.2018 for AY 2012-13.

2. The main grievance of the assessee is against the action of the Ld. CIT(A) in dismissing the appeal ex parte. At the outset itself, the Ld. Counsel for the assessee drew our attention to the fact that though the Ld. CIT(A) has taken note in the impugned order that despite fixing the matter on various dates, the assessee did not turn up before him for presenting his case. According to Ld. AR, the notices fixing the hearing were not served upon the assessee or it was served after the date of hearing. Therefore, the assessee did not get proper opportunity when the matter was fixed before the Ld. CIT(A), so, according to Ld. AR, there is violation of Natural Justice.

3. We have hearing rival submissions and gone through the facts and circumstances of the case. We note that though the Ld. CIT(A) has listed the matter for hearing on various dates. According to Ld. Counsel, assessee did not receive the notices or notices were

received after the date of hearing which effectively means that the assessee was prevented from instructing his AR to be present before the Ld. CIT(A) on the date and time when the matter was fixed for hearing. In such a scenario, we are inclined to set aside the order of the Ld. CIT(A) and remand the matter back to his file for de novo adjudication after affording reasonable opportunity of being heard to the assessee in accordance to law. Assessee is also directed to appear before the Ld. CIT(A) diligently without fail.

4. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open court.

Sd/-

(Dr. A. L. Saini)
Accountant Member

Sd/-

(Aby. T. Varkey)
Judicial Member

Dated : 13th May, 2019

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Padum Gogoi, House No. 4, Bye Lane, Behind Down Town, Dwarka Mathura Nagar, Guwahati-781006.
2. Respondent –. DCIT, Circle-3, Guwahati
3. The CIT(A), Guwahati-2, Guwahati.
4. CIT , Guwahati
4. DR, ITAT, Guwahati Bench, Guwahati

/True Copy,

By order,

Assistant Registrar